



Entered on Docket
March 22, 2007

Hon. Linda B. Riegle
United States Bankruptcy Judge

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Attorneys for Debtors and Debtors-in-Possession

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re:
USA COMMERCIAL MORTGAGE COMPANY,
Debtor.

Case Nos. BK-S-06-10725 LBR
Case Nos. BK-S-06-10726 LBR
Case Nos. BK-S-06-10727 LBR
Case Nos. BK-S-06-10728 LBR
Case Nos. BK-S-06-10729 LBR

In re:
USA CAPITAL REALTY ADVISORS, LLC,
Debtor.

In re:
USA CAPITAL DIVERSIFIED TRUST DEED
FUND, LLC,
Debtor.

Chapter 11

Jointly Administered Under
Case No. BK-S-06-10725 LBR

In re:
USA CAPITAL FIRST TRUST DEED FUND, LLC,
Debtor.

In re:
USA SECURITIES, LLC,
Debtor.

**ORDER DENYING
(1) EMERGENCY *EX PARTE*
MOTION FOR CONTINUANCE
OF HEARING, AND
(2) MOTION FOR LIMITED
STAY PENDING APPEAL**

Affects:

- ☒ All Debtors
- ☐ USA Commercial Mortgage Company
- ☐ USA Securities, LLC
- ☐ USA Capital Realty Advisors, LLC
- ☐ USA Capital Diversified Trust Deed Fund, LLC
- ☐ USA Capital First Trust Deed Fund, LLC

**Hearing Date: March 1, 2007
Hearing Time: 9:30 a.m. PST**

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The matters before the Court are: (1) a Motion for Limited Stay Pending Appeal [Docket No. 2848] (“Motion for Stay”), and (2) an Emergency *Ex Parte* Motion for Continuance of Hearing on the Motion for Stay [Docket No. 2925] (“Motion for Continuance”) both of which were filed on behalf of the “Lenders Protection Group” (“LPG”) and the Charles B. Anderson Trust, Rita P. Anderson Trust, Blates Company, Kehl Family Members and Mojave Canyon, Inc. (“Jones Vargas Direct Lenders”) (collectively, the “Appellants”). Pursuant to the Order Shortening Time Regarding Appellants’ Motion for Stay Pending Appeal [Docket No. 2878], entered at the request of the Appellants [Docket Nos. 2849-2855], a hearing on the Appellants’ Motion for Stay was held on March 1, 2007, at which time the Appellants’ Motion for Continuance was also considered by the Court. Kevin A. Darby of The Law Offices of Alan Smith appeared on behalf of LPG; Janet L. Chubb of Jones Vargas appeared on behalf of the Jones Vargas Direct Lenders; Annette W. Jarvis of Ray Quinney & Nebeker, P.C. and Lenard E. Schwartzer of Schwartzer & McPherson Law Firm appeared on behalf of the Debtors, USA Commercial Mortgage Company, USA Capital First Trust Deed Fund, LLC, USA Capital Diversified Trust Deed Fund, LLC, USA Capital Realty Advisors, LLC, and USA Securities, LLC (collectively, the “Debtors”); Susan M. Freeman and Robert M. Charles of Lewis and Roca, LLP appeared on behalf of the Official Unsecured Creditors’ Committee for USA Commercial Mortgage Company (“USACM Committee”); Frank A. Merola and Eve H. Karasik of Stutman, Treister & Glatt, P.C. appeared on behalf of the Official Committee of Equity Security Holders of USA Capital First Trust Deed Fund, LLC (“FTDF Committee”); Jeffrey D. Hermann of Orrick, Herrington & Sutcliffe LLP appeared on behalf of the Official Committee of Equity Security Holders of USA Capital Diversified Trust Deed Fund, LLC; and Gregory E. Garman of Gordon & Silver, Ltd. appeared on behalf of Official Committee of Holders of Executory Contracts Rights through USA Commercial Mortgage Company.

The Court has reviewed the Motion for Stay, the Motion for Continuance; the Declaration of Kevin A. Darby filed in support of the Motion for Continuance [Docket No. 2926]; the Debtors’ Opposition to Motion for Limited Stay Pending Appeal and the Exhibits attached thereto [Docket No. 2915] (“Debtors’ Opposition”); the Declaration of Susan M. Smith filed in support of

the Debtors' Opposition [Docket No. 2916]; the Joinder in the Debtors' Opposition filed by the USACM Committee [Docket No. 2929]; the Opposition to the Motion for Stay and Joinder in Debtors' Opposition filed by the FTDF Committee [Docket No. 2917]; and the nine Declarations that were filed by LPG just prior to the hearing in support of the Motion for Stay [Docket Nos. 2931-2939] (collectively, the "Pre-Hearing Declarations"). During the hearing, LPG filed twenty-one additional Declarations in support of the Motion for Stay [Docket Nos. 2940-2961] (together with the Pre-Hearing Declarations, the "LPG Declarations"). Based on a review of all of these documents and the applicable law, for the reasons stated by the Court on the record as its findings of fact and conclusions of law, which are incorporated herein by reference, and for good cause showing,

IT IS HEREBY ORDERED that:

- (1) The Motion for Continuance is DENIED;
- (2) The LPG Declarations are STRICKEN; and
- (3) The Motion for Stay is DENIED.

Submitted by:
RAY QUINNEY & NEBEKER P.C.
and SCHWARTZER & MCPHERSON LAW
FIRM

Approved/Disapproved by:
LAW OFFICES OF ALAN R. SMITH
and JONES VARGAS

By: /s/ Jeanette E. McPherson
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Approved/Disapproved by:
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**ORDER DENYING (1) EMERGENCY *EX PARTE* MOTION FOR CONTINUANCE
OF HEARING, AND (2) MOTION FOR LIMITED STAY PENDING APPEAL**

Approved/Disapproved by:
ORRICK, HERRINGTON & SUTCLIFFE LLP
and BECKLEY SINGLETON, CHTD.

Approved/Disapproved by:
STUTMAN TREISTER & GLATT, P.C. and
SHEA & CARLYON, LTD.

By: /s/ Marc A. Levinson
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First Trust Deed Fund LLC*

In accordance with LR 9021, counsel submitting this document certifies as follows (check one):

☐ The court has waived the requirement of approval under LR 9021.

☐ No parties appeared or filed written objections, and there is no trustee appointed in the case.

☒ On March 15, 2007 I delivered a copy of this proposed order to all counsel who appeared at the hearing, any unrepresented parties who appeared at the hearing, and any trustee appointed in this case, and each has approved or disapproved the order, or failed to respond, as indicated below [list each party and whether the party has approved, disapproved, or failed to respond to the document]:

Failed to respond: LAW OFFICES OF ALAN R. SMITH and JONES VARGAS

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